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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,981	12/11/2003	Toshihiko Munetsugu	32161US2	1257
116	7590	03/20/2006	EXAMINER	
PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			NGUYEN, MAIKHANH	
			ART UNIT	PAPER NUMBER
			2176	

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/733,981

Applicant(s)

MUNETSUGU ET AL.

Examiner

Maikhanh Nguyen

Art Unit

2176

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***DETAILED ACTION***

1. This action is responsive to the following communications: Amendment filed 12/23/2005 to the original application filed 12/11/2003, which is Con. of No. 09/467231, filed 12/20/1999.
2. Claims 1-36 are currently pending in this application. Claims 1, 9, 17, and 27 are independent claims.

***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. CIT. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Uogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 C.F.R. ' 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. ' 1.78(d).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Pending claims 1-36 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 55-82 of copending Application No. 09/467,231 (hereinafter '231) in view of **Mauldin et al.** (U.S. 5,664,227, issued 09/1997).

**As to pending claims 1, 9, 17, and 27**, claims 55, 61, 67, and 75 of copending Application' 231 teach substantially the same as pending claims **1, 9, 17, and 27**.

- a. Additionally, pending independent claims 1, 9, 17, and 27 recite "a viewpoint represented by at least one keyword describing scenes".
- b. Mauldin teaches a viewpoint represented by at least one keyword describing scenes (*the keyword selection for the user's context ... identified keywords are used to extract the most relevant portions of the audio; col.8, lines 3-7*).
- c. It would have been obvious to a person skill in the art at the time the invention was made to combined the teachings of Mauldin and '231' because it would have provided the capability for performing high speed scans of digital video segments by presenting quick representations of scenes.

As to pending claims 2-8, 10-16, 18-26, and 28-36, claims 56-60, 62-66, 68-74, and 76-82, repeatedly, teach substantially the same as pending claims 2-8, 10-16, 18-26, and 28-36.

This is provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patent.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

*(b) This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).*

6. Claims 1, 3-9, 11-17, 19-27 and 29-36 remain rejected under 35 U.S.C. 103(a) as being unpatentable over **Mauldin et al.** (U.S. 5,664,227, issued 09/1997).

**As to claim 9:**

- a. Mauldin teaches a data processing method comprising the steps of:

- (i) inputting content description data (*Fig.2, items 18 and 20 – shows video and audio data are input*) describing plurality of segments in which each of said plurality of segments represents a scene of media content constituted by a plurality of scenes (*e.g., the video data 20 is input into an image process function ...then segmenting that digitalized video data into paragraph based on content; col.5, lines 16-29*); and
  - (ii) selection means for selecting one of said plurality of segments (*e.g., selecting representative frames from each of the video segments; col.3, lines 21-31/ the selection of video segments; col.5, lines 10-15*).
- b. Mauldin does not specially teach *scores that are attribute information of the media content representing a viewpoint representing by at least one keyword describing scenes, the scores also representing degree of relative importance of each of said plurality of segments based on the viewpoint* as claimed. However, Mauldin's teachings "keywords are identified ... determined keywords ... to determine the relative importance of a word; col.7, line 34-col.8, line 15 & Fig.2" suggest "*scores that are attribute information of the media content representing a viewpoint representing by at least one keyword describing scenes*" and "identification keywords are used to extract the most relevant portions of the audio ...to determine the relative importance of a word; col.7, line 66-col.8, line 15" suggest "*the scores also representing degree of relative importance of each of said plurality of segments based on the viewpoint.*"

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- c. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have applied Mauldin's teachings to include "*scores that are attribute information of the media content representing a viewpoint representing by at least one keyword describing scenes, the scores also representing degree of relative importance of each of said plurality of segments based on the viewpoint*" because it would have provided the capability for performing high speed scans of digital video segments by presenting quick representations of scenes.

**As to claim 11:**

Mauldin teaches the content description data includes supplemental information (*col.5, lines 31-44*).

**As to claim 12:**

Mauldin teaches the media content corresponds to video data and/or audio data (*Fig. 2, video data 20 & audio data 18*).

**As to claim 13:**

Mauldin teaches each of the plurality of segments is provided with linkage information for linking to dominant data that presents the segment (*col.5, lines 31-44*).

**As to claim 14:**

Mauldin teaches the dominant data is text data, image data and/or audio data (*col.4, lines 53-67*).

**As to claims 15-16:**

Mauldin teaches a plurality of sets of the viewpoint and the scores are described in one segment (*col.5, lines 1-9 and item 48 in Fig.1*).

**As to claim 1:**

It is directed to a data processing apparatus for performing the method of claim 9, and is similarly rejected under the same rationale.

**As to claims 3-8:**

They include the same limitations as in claims 11-16, and are similarly rejected under the same rationale.

**As to claim 27:**

- a. The rejection of independent claim 9 above is incorporated herein in full.  
Additionally, claim 17 further recites “a plurality of scenes that are marked off by time according to scene boundary, and scores that are attribute information of the media contents presenting time information describing scene boundaries.”
- b. While Mauldin teaches a plurality of scenes that are marked off by time according to scene boundary (*to identify segment boundaries, the image processing function 231 locates beginning and end points for each shot, scene, conversation, or the like by applying machine vision methods the interpret image sequences; col.5, lines 16-29*), but does not specially teach “scores that are attribute information of the media contents presenting time information.”
- c. Refer to the rejection of claim 9 above for “scores that are attribute information of the media contents presenting time information.”

**As to claims 29-34:**



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They include the same limitations as in claims 3-8, and are similarly rejected under the same rationale.

**As to claims 35-36:**

Mauldin teaches the time information includes starting time and ending time of each scene (*e.g., beginning and end points for each shot, scene; col.5, lines 25-29 and col.8, lines 55-59*).

**As to claim 17:**

It is directed to a data processing method for performing the method of claim 27, and is similarly rejected under the same rationale.

**As to claims 19-24:**

They include the same limitations as in claims 3-8, and are similarly rejected under the same rationale.

**As to claims 25-26:**

They include the same limitations as in claims 35-36, and are similarly rejected under the same rationale.

7. Claims 2, 10, 18, and 28 remain rejected under 35 U.S.C. 103(a) as being unpatentable over **Mauldin et al.** in view of **Ozsoyoglu et al.** "Automating the Assembly of Presentation from Multimedia Databases" (issued 1996).

**As to claims 2, 10, 18, and 28:**

- a. Mauldin does not specifically teach “*the plurality of segments are hierarchically described.*”
- b. Ozsoyoglu teaches the plurality of segments are hierarchically described (*each segment in the multimedia is denoted by a node; page 595, left column & Figs.3.1 & 3.2*).
- c. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Ozsoyoglu and Mauldin because it would have provided capability for organizing the segments of multimedia contents in the system.

***Response to Arguments***

8. Applicant’s arguments filed 12/23/2005 have been fully considered but they are not persuasive.
  - a. Applicant argues that *the Examiner has clearly obtained the motivation from the application itself* [Remarks, page 4].

In response to Applicant's argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge

which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. *In re McLaughlin*, 443 F.2d 1392; 170 USPQ 209 (CCPA 1971).

- b. Applicant argues that Mauldin does not teach *an input means for inputting the context description data including the scores* [Remarks, page 5].

In response, Mauldin does teach the recited claim limitations. As shown through the mapping provided in the claim rejections, Mauldin meets “*an input means for inputting the context description data including the scores*” (see fig.2; col.5, lines 10-29; and col.7, line 34-col.8, line 15).

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

*Contact information*

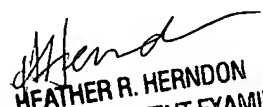
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maikhanh Nguyen whose telephone number is (571) 272-4093. The examiner can normally be reached on Monday - Friday from 9:00am – 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on (571) 272-4136.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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